IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 20496 of 1999

Between:

G.V.Subba Rao S/o.late G.Pullaiah, Metropolitan Magistrate(Retired)
R/o.Malakpet, Hyderabad

..... PETITIONER

AND

1 The High Court of Andhra Pradesh rep.by Registrar (Vigilance)
High Court, Hyderabad

2 The Government of Andhra Pradesh Law (L.A.& J Courts, C) Department
rep.by its Secretary, Secretariat, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ of mandamus or any other appropriate writ, direction, or dirctions declaring the proceedings of the respondents in retiring the petitioner on completion of 58 years without continuing him upto the age of 60 years as arbitrary and unreasonable and to issue a consequential direction to continue him to the age of 60 years with all consequential direction.

Counsel for the Petitioner:MR.V.SRINIVAS

Counsel for the Respondent No.1: SMT.M.BHASKARA LAKSHMI

Counsel for the Respondent No.2: G.P. for Home

The Court made the following Oral Order: (per Sri Devinder Gupta, CJ)

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Petitioner joined the judicial service of State of Andhra Pradesh in the year 1986 as Munsif Magistrate and thereafter worked in various Courts as Munsif Magistrate. For a short period, he also worked in A.P. Judicial Academy as Administrative Officer on deputation. Lastly, he was posted as Metropolitan Magistrate in City Criminal Courts, Hyderabad.

Petitioner's case is that during his service career, only a minor punishment of stoppage of one increment without cumulative effect was imposed upon him in the year 1993, which was challenged by him in Writ Petition. It is stated that in any case, the period of punishment had expired and thereafter he had also received that increment. Abruptly, in the month of August, 1999 petitioner received the order of the 2nd respondent dated 13.8.1999 to the effect that he shall retire from service on 31.8.1999 on completion of 58 years of age basing upon the report of the 1st respondent. Petitioner states that thereafter he received the proceedings of the 1st respondent dated 23.8.1999, which were served upon him on 28.8.1999. Subsequently, on 3.8.1999, the 1st respondent made a recommendation to the 2nd respondent-Government for petitioner's retirement on completion of 58 years of age. Petitioner's case is that as per the service Rules, he would have superannuated on attaining the age of 60 years and in support of this submission, he placed reliance

on the decision of the Supreme Court in ALL INDIA JUDGES ASSOCIATION vs. UNION OF INDIA & OTHERS () & also on the later decision of the Supreme Court concerning the same issue in ALL INDIA JUDGES vs. UNION OF INDIA & OTHERS () and also on the amendment introduced to Section 3 of the A.P. Public Employment (Regulation of age of Superannuation) Act, 1984, which provide that every member of Judicial Service shall retire from service on attaining the age of 60 years, but may be compulsorily retired from service on his attaining the age of 58 years if he was not found fit and eligible to be continued in service on an assessment and evaluation of the record of such Officer for his continuation well within the time before he attained he of 58 years. Petitioner, feels aggrieved by the action of the respondents in ordering compulsory retirement.

Challenge by the petitioner to the impugned order is on two fold grounds. The first ground is non-compliance of the principles of natural justice and the second ground is that the order has been passed arbitrarily without there being any notice.

In so far as the first ground of challenge is concerned, it is not available to a person who is compulsorily retired from service, in view of the settled position of law, for which, we may make a reference to the decision of the Supreme Court in JUGAL CHANDRA SAIKIA vs. STATE OF ASSAM & OTHERS() which has approved the decision of the Supreme Court in BAIKUNTHA NATH DAS vs. CHIEF DISTRICT MEDICAL OFFICER & OTHERS () With regard to the second ground, we had called upon the respondents to make available to us the service record of the petitioner.

We have perused the service record of the petitioner. A perusal of the service record of the petitioner for the period 1993 to 1999 would reflect a very sorry state of affairs. Initially, in the year 1998, petitioner's work was found to be poor and his integrity was also found to be doubtful. Further the Special Confidential Report dated 31.1.1999 pointed out that petitioner's work and conduct are not satisfactory and his integrity was found to be doubtful and he was also found to have been involved in some scandal of attestation of about 500 to 600 affidavits relating to date of birth for obtaining passports. There was also a complaint from the Metropolitan Sessions Judge, Hyderabad informing that the 10th Metropolitan Magistrate had informed in his report that the petitioner requested him to favour an accused in one case on his file and on that basis, the learned Sessions Judge requested the High Court to take necessary action and circulated the file to the High Court. The learned Sessions

Judge himself seems to have spoken to the Chief Justice personally in that regard.

This Court after taking into consideration the entire service record, Annual Confidential Reports, Work Review and the Special Confidential Reports and the complaints received against the petitioner opined that the petitioner has lost his utility and is not fit to be continued in Judicial Service beyond the age of 58 years. The High Court, thereafter, addressed the Government to issue immediate consequential orders recommending for compulsory retirement of the petitioner. Accordingly, the Government issued the impugned G.O. dated 23.8.1999 notifying petitioner's retirement.

We find absolutely no justification in interfering with the orders impugned in the writ petition. The writ petition is accordingly dismissed. No costs.

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DEVINDER GUPTA, CJ

Date: 11th August, 2004

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C.V.RAMULU,J

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To

1 The Registrar (Vigilance), High Court of Andhra Pradesh, Hyderabad.

2. The Secretary, Law (L.A.& J Courts, C) Department, Government of Andhra Pradesh, Secretariat, Hyderabad

3. The Section Officer, Legal Cell, High Court of A.P. Hyderabad.

4. Two C.Cs. to the learned Government Pleader for Home, High Court

Buildings, Hyderabad.(OUT)

5. Two C.D. copies